

INSTRUCTION NO. 2(5)

You have convicted the defendant of an offense which may be punished by death; to wit, capital murder of Linda Franklin in the commission of or attempt to commit an act of terrorism. You must decide whether the defendant shall be sentenced to death or to imprisonment for life or to imprisonment for life and a fine of a specific amount, but not more than \$100,000.00. Before the penalty can be fixed at death, the Commonwealth must prove beyond a reasonable doubt at least one of the following aggravating circumstance:

1. That, after consideration of his history and background, there is a probability that he would commit criminal acts of violence that would constitute a continuing serious threat to society; or
2. That his conduct in committing the offense was outrageously or wantonly vile, horrible or inhuman, in that it involved depravity of mind.

If you find from the evidence that the Commonwealth has proved beyond a reasonable doubt both of these circumstances, then you may fix the punishment of the defendant at death. But if you nevertheless believe from all the evidence, including evidence in mitigation, that the death penalty is not justified, then you shall fix the punishment of the defendant at:

1. Imprisonment for life; or
2. Imprisonment for life and a fine of a specific amount, but not more than \$100,000.00.

If you find from the evidence that the Commonwealth has proved beyond a reasonable doubt either of these circumstances, then you may fix the punishment of the defendant at death. But if you nevertheless believe from all the evidence, including evidence in mitigation, that the death penalty is not justified, then you shall fix the punishment of the defendant at:

1. Imprisonment for life; or

GRANTED
JMR

2. Imprisonment for life and a fine of a specific amount, but not more than \$100,000.00.

If the Commonwealth has failed to prove beyond a reasonable doubt at least one of these circumstances, then you shall fix the punishment of the defendant at:

1. Imprisonment for life; or
2. Imprisonment for life and a fine of a specific amount, but not more than \$100,000.00.

Any decision you make regarding punishment must be unanimous.

INSTRUCTION NO. 1(5)

You have convicted the defendant of an offense which may be punished by death; to wit, capital murder (killing of more than one person within a three-year period). You must decide whether the defendant shall be sentenced to death or to imprisonment for life or to imprisonment for life and a fine of a specific amount, but not more than \$100,000.00. Before the penalty can be fixed at death, the Commonwealth must prove beyond a reasonable doubt at least one of the following aggravating circumstance:

1. That, after consideration of his history and background, there is a probability that he would commit criminal acts of violence that would constitute a continuing serious threat to society; or
2. That his conduct in committing the offense was outrageously or wantonly vile, horrible or inhuman, in that it involved depravity of mind.

If you find from the evidence that the Commonwealth has proved beyond a reasonable doubt both of these circumstances, then you may fix the punishment of the defendant at death. But if you nevertheless believe from all the evidence, including evidence in mitigation, that the death penalty is not justified, then you shall fix the punishment of the defendant at:

1. Imprisonment for life; or
2. Imprisonment for life and a fine of a specific amount, but not more than \$100,000.00.

If you find from the evidence that the Commonwealth has proved beyond a reasonable doubt either of these circumstances, then you may fix the punishment of the defendant at death. But if you nevertheless believe from all the evidence, including evidence in mitigation, that the death penalty is not justified, then you shall fix the punishment of the defendant at:

1. Imprisonment for life; or

GRANTED
JMR

2. Imprisonment for life and a fine of a specific amount, but not more than \$100,000.00.

If the Commonwealth has failed to prove beyond a reasonable doubt at least one of these circumstances, then you shall fix the punishment of the defendant at:

1. Imprisonment for life; or
2. Imprisonment for life and a fine of a specific amount, but not more than \$100,000.00.

Any decision you make regarding punishment must be unanimous.

INSTRUCTION NO: C - Sent.

The words "imprisonment for life" mean imprisonment for life without possibility of parole.

GRANTED
JMR

INSTRUCTION NO: F - SENT

"Depravity of mind" is defined as "a degree of moral turpitude and psychological debasement surpassing that inherent in the definition of ordinary legal malice and premeditation."

GRANTED
JMR

INSTRUCTION NO: L - SENT

If you find that the Commonwealth has proved beyond a reasonable doubt the existence of an aggravating circumstance, in determining the appropriate punishment you shall consider any mitigation evidence presented of circumstances which do not justify or excuse the offense but which in fairness or mercy may extenuate or reduce the degree of moral culpability and punishment.

GRANTED
JMR

INSTRUCTION NO. M-1-SENT

Before you may fix the penalty in this cause at life imprisonment or death, you are required to consider any evidence that has been presented in mitigation.

Mitigation circumstances may include, but are not limited to, any fact relating to defendant's age, character, education, environment, mental condition, life and background, or any aspect of the crime itself which might be considered extenuating or tend to reduce his moral culpability.

You must consider a mitigating circumstance if you find there is evidence to support it. The weight which you accord a particular mitigating circumstance is a matter for your judgment. However, you may not refuse to consider any evidence that has been presented in mitigation.

GRANTED
JMR

INSTRUCTION NO: H- SENT

There is nothing in the law of Virginia that requires you to impose a sentence of death. Even if you find that the Commonwealth has proved the aggravating circumstances of vileness and/or future dangerousness beyond a reasonable doubt, you are not required to impose a sentence of death.

GRANTED
JMR